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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-ninth session

SUMMARY RECORD OF THE 1475th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 6 August 2001, at 10 a.m.

Chairman: Mr. SHERIFIS

later: Mr. FALL
(Vice-Chairman)

later: Mr. SHERIFIS
(Chairman)

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Initial, second and third periodic reports of the United States of America (continued) (CERD/C/351/Add.1; HRI/CORE/1/Add.49)

1. At the invitation of the Chairman, the members of the delegation of the United States of America resumed their places at the Committee table.

2. Mr. DIACONU said that the Committee's task was to encourage States parties, through dialogue with the Committee, to continue to strive, through domestic measures, to implement the Convention's provisions. Improvements inevitably took time, and it was clear that the United States authorities still had much to do to achieve full implementation, but the report showed that constant evolution was possible in the United States towards achieving full equality and eliminating racial discrimination, and that its Constitution was no impediment thereto. It was not helpful to adopt immobile positions based on the arguments of federalism and formal reservations adopted at the time when the United States had become a State party.

3. Three issues he wished to address were the impact of federalism on the Convention's implementation, the Convention's place in the United States legislative system, and the impact of the reservations on implementation of the Convention in that country. The United States had said, when ratifying the Convention, that its provisions would be implemented by the federal Government to the extent that it exercised jurisdiction over the matters covered therein and by State and local governments to the extent that they exercised jurisdiction over such matters, and, most importantly, that the federal Government would take, as necessary, appropriate measures to ensure fulfilment of the Convention. He was satisfied with that as an explanation of modalities, not a reservation; at the same time, he understood that, while legislation at State and local level could enhance protection against racial discrimination, it should not be allowed to weaken the provisions of federal law. He would like to have confirmation in that regard.

4. On the second issue, the Convention was not deemed self-executing - a position taken by some other countries, although they had not made a declaration to that effect. He agreed that the statement had no effect on international obligations or relations with States parties; but it was bound to affect implementation of the Convention in the absence of relevant domestic legislation. It was a matter of the level of protection of United States citizens - if they could not litigate on the basis of the Convention's provisions they must either have that facility under national laws or enjoy the possibility of State action on their behalf, since the Convention's provisions were meant to benefit individuals. And it had to be asked how, if the Convention was not self-executing, it could be implemented in any States which did not have local legislation to deal with racial discrimination.

5. With regard to the relationship of the Convention to United States legislation, recent Supreme Court decisions had tended to interpret international treaties in a restrictive way, in favour of federal laws, even when they were not in full conformity with treaties. United States

jurisprudence seemed to accept the objective primacy of the treaties over State and local government laws. But the position regarding federal law was not clear; the legislative system seemed to apply the lex posterior derogat priori principle when more recent federal laws conflicted with treaties ratified previously. He would appreciate the delegation's comments in that regard.

6. One of the reservations was that the United States accepted no obligation under the Convention, particularly under articles 4 and 7, to restrict individual freedom of speech, expression and association, through the adoption of legislative and other measures, to the extent that they were protected by the country's Constitution and laws. Since article 7 could be considered as aimed chiefly at education as a means to combat prejudice, the reservation would seem to apply mainly to article 4. The values reflected in the reservation - freedom of speech, expression and association - might appear somewhat different from those which article 4 sought to protect - equality, respect and non-discrimination, but human rights treaty bodies had concluded that there was no structural conflict between them, on the presumption that no human right was absolute and no person could claim to have rights without responsibilities. The report acknowledged that racial discrimination and inequalities persisted; there was surely a connection between the notion and promotion of racial superiority and such discrimination, barriers and disparities, and between "hate speech" and "hate crime". All human values should be protected, but when any of them conflicted with society the State had to seek ways to reconcile them, not sacrifice some for others. He was sure that the United States would find ways to do so, as had other States, some of them highly democratic, which had originally made reservations to article 4. The Committee viewed the reservation, therefore, as something adaptable to realities.

7. The United States further accepted no obligation to take legislative or other measures under articles 2, 3 and 5 with respect to private conduct, except as mandated by the United States Constitution and laws - a situation it was impossible for the Committee to appraise. The report showed that many aspects involving private conduct were already subject to government regulation - in employment, education, private housing, federally-assisted health programmes and so on. The United States should keep such situations under constant review and enhance the legislation; for instance, it should expand legislation on non-discrimination in employment to companies employing fewer than 15 persons.

8. As the Committee saw it, the intention of the United States Government was not to freeze its stance at that adopted at the time of ratification; the Committee could not reasonably request the withdrawal of the reservations, but it expected some evolution with regard to the United States interpretation and implementation of the Convention, which the Committee would periodically monitor, with the request that the State party keep its legislation under review so as to reduce the areas not protected against racial discrimination.

9. Mr. PILLAI said that the number of non-governmental organizations (NGOs) represented at the meeting reflected the importance attached by United States civil society bodies to matters of racial discrimination. Their contribution enhanced the Committee's understanding, and the report itself, in paragraph 9, acknowledged their work.

10. Certain groups or minorities, particularly black, Latino and Native American pupils, suffered most from unequal educational opportunities. He wondered what guidance and supervision the federal Government exercised over State and local authorities, which received large amounts of federal funds for education. According to paragraph 412 of the report, the federal Government had a special and continuing obligation to ensure that State and local school districts took appropriate action to provide equal opportunities to children and youth of limited proficiency in English; he took it that that applied to education in general and, equally importantly, to the quality of education, although the paragraph was headed "Bilingual education". Certain lawsuits in California, which he cited, had been based on failure to provide equal access to education regardless of race, colour or national origin, and on the violation of State and federal requirements in that regard, apparently as a result of sub-standard conditions which had a discriminatory impact, particularly on non-white, non-English-speaking poor children. A lack of access to advance placement courses by ethnic minority students had likewise been alleged. According to paragraph 199 of the report, an increase in the college completion rate for young white adults was widening the gap between them and non-white students; the reasons appeared to be that the latter suffered the disadvantage of inadequately equipped lower-level schools as well as being denied admission to higher education establishments by their inability to compete.

11. Although the Government's affirmative action in higher education was well documented there were signs that some States were not keen on affirmative action in such an important area. He referred in particular to the ruling in the case of Hopwood v. Texas, mentioned in paragraph 275 of the report. Paragraphs 275 to 279 of the report dealt with the concept of affirmative action, referred to by some as "reverse discrimination", and noted a number of legislative proposals and State referenda designed to limit the use of such action, as well as judicial challenges. In 1995 the report of a review of federal affirmative action programmes had concluded that such programmes should be continued and improved. In that regard, he was not satisfied with the wording of the statement in paragraph 279 that, in the view of the United States, its obligations under the Convention did not preclude adoption and implementation of appropriately formulated affirmative action measures consistent with the United States constitutional and statutory provisions. He would have preferred a more positive statement which affirmed commitment to a policy of promoting the rights of disadvantaged ethnic groups.

12. He stressed that education in its entirety was the most basic and critical component of a State's efforts to promote racial equality and harmony, and its impact on health, employment and poverty could not be overemphasized. He hoped, too, that the United States Government would pay due regard to the various reports circulated by a number of civil society organizations relating to racial discrimination in education.

13. Ms. BRITZ said she wondered in general, how, in a country with such a large amount of anti-discrimination legislation, such a high degree of inequality could still exist in matters such as health care, criminal justice, educational opportunities and housing; and whether the legislation itself had particular weaknesses or whether it was not the appropriate cure for racial inequality. A more specific question concerned discrepancy as to what was understood by discrimination, as defined in article 1, paragraph 1 of the Convention and further clarified in the

Committee's General Recommendation XIV. According to a Supreme Court interpretation (para. 235 of the report), discriminatory intent, as well as disparate impact, had to be shown in order to demonstrate a constitutional violation of equal protection. But intent was much more difficult to prove than impact. Reading between the lines of the report, it was clear that its authors were aware of that discrepancy.

14. She was not satisfied with the report's conclusion that there was no contradiction between the Convention and United States law. Although the report explained that some federal civil rights statutes prohibited practices having discriminatory effects, even in the absence of intent, not all possible cases of discrimination were covered; the discrepancy between the narrow United States understanding of discrimination and the broader understanding reflected in the Convention was a point on which she would like the delegation to comment.

15. With regard to the reservations, she was especially concerned about that relating to private conduct. For example, the Fair Housing Act, though prohibiting discrimination on grounds of race, allowed exceptions in certain cases; of particular concern was the implication that exceptions could apply to better-class property or areas. She also wondered whether reluctance to regulate third-party discrimination might not help to maintain inequality. Moreover, with regard to reservation I (1) and (2), the reference to the Constitution and laws of the United States meant that, if the Committee wished to examine any question of non-implementation of the Convention, it would have to interpret United States law in order to decide whether the reservation covered that question or not; but such interpretation was not within the Committee's purview.

16. She also wished to know what sort of anti-discrimination policy could be expected from the new Administration. In particular, she had in mind the question of special measures to support minority groups through affirmative action consonant with article 2, paragraph 2 of the Convention. The report explained that adoption of such measures had become more difficult during the past decade, for well-known juridical reasons, but that affirmative action was still possible. She wondered whether the delegation agreed with that assertion and with the statement, at the end of paragraph 278 of the report, that affirmative action programmes could be developed in a way fair to all.

17. With regard to special measures, she would like to know how all the measures adopted or proposed for adoption by the new Administration regarding education voting rights would be secured for the benefit of all racial and ethnic groups. She wondered to what extent those measures would conform to the provisions of article 2, paragraph 2, of the Convention, since she had inferred from the delegation's statements that the measures would be of a general nature not directed to particular groups.

18. Lastly, the question of voting rights of the inhabitants of Washington D.C. had racial overtones because, according to data submitted by an NGO, 75 per cent of them belonged to racial minorities. She wished to know, therefore, how the denial of their voting rights was justified.

19. Mr. TENG Chengyuang expressed concern about the United States reservation to article 4 on the grounds of incompatibility with constitutional guarantees of freedom of speech, expression and association. Article 4 was an essential component of the Convention and freedom of expression should not be used to justify tolerating racism or violating the rights of others; it would have been preferable for the State party to make some kind of a statement with regard to interpretation and implementation of article 4 rather than going so far as to make a reservation which tended to lessen the impact of the Convention.

20. He also had concerns about the status of minorities and noted discrimination against the Native Indian population, which included continuing problems in the area of land rights and insufficient government measures to alleviate high levels of poverty. He wondered whether the high proportion of African Americans sentenced to death was indicative of a discriminatory attitude and noted the continuing problems with regard to voting rights in some states and economic, social and cultural rights in general. As to the Asian, in particular the Chinese, minority, he noted the large numbers of both legal and illegal immigrants and stressed the need to ensure respect for minimum human rights standards in the treatment of illegal immigrants especially. Immigrants from the People's Republic of China should not be subjected to any special discrimination simply because they were from a Communist State. Measures should also be taken to improve the situation of Chinese children who were victims of trafficking in order to promote rapid integration and ensure their development and access to education. He observed that social security benefits were especially important for minorities and for improving the situation of the poor but regretted that recent reforms had in fact reduced the level of benefits available to immigrants.

21. Ms. JANUARY-BARDILL, while recognizing that the Fifth and Fourteenth Amendments to the Constitution prohibited racial discrimination on the part of any public authority (report, para. 177) and that there existed a vast legal environment for implementation of measures relating to the Convention (report, paras. 84-144), expressed concern that, despite the existence of the legal framework and implementing mechanisms, numerous factors continued to have a negative effect on implementation (paras. 71 and 72). High levels of institutional and systemic racial discrimination persisted, as evidenced for example by lack of educational opportunity, discrimination within the criminal justice system, unequal health care for minorities and disadvantaged women, and continued inequality for the African American population. She stressed that covert racial discrimination was sometimes more dangerous than overt racial discrimination and its effects more devastating and therefore wondered who was to blame for factors which continued to affect implementation and for inadequate funding of public services, how local, state and federal authorities were reacting to violations of legislation at the institutional level, and who would address issues relating to equal access and ensure that equal treatment continued.

22. She stressed the need to deal with different treatment accorded to whites and minorities in the judicial system, in particular with regard to sentencing. Noting that women, in particular minority women, had made some progress in the military, although problems remained, she wondered why the military had been so successful in recruiting minority women, even though they were under-represented in the more professional job categories (para. 193).

23. Mr. YUTZIS, referring article 5 and the obligation of States parties to guarantee the rights of all, noted that among the factors affecting implementation described in the report was "under-funding of federal and State civil rights agencies" (para. 71 (b)), and requested statistics on levels of funding for human rights activities, specifically statistics expressed not only in actual figures, which were relative and could be misleading, but also as a percentage of gross domestic product, which would provide a better understanding of the priority and resources allotted to human rights questions, and should preferably be broken down by areas such as housing, health, etc.

24. The State party's reservations to articles 4 and 7 of the Convention (paras. 147-155), in particular the argument that the First Amendment to the United States Constitution on freedom of opinion and speech sharply curtailed the Government's ability to restrict or prohibit the expression or advocacy of certain ideas, however objectionable (para. 150), were clearly incompatible with the spirit of the Convention. Racist ideas expressed orally or in writing could be just as devastating in their effects as acts and have a deleterious effect on peaceful coexistence, racial harmony and democracy.

25. Turning to concerns relating to article 2, paragraph 1 (c), of the Convention regarding laws and regulations which had the effect of creating or perpetuating racial discrimination, he noted, as described in paragraph 235 of the report, that although certain federal rights statutes, such as the Voting Rights Act of 1965, Title VII of the 1964 Civil Rights Act and the Fair Housing Act, prohibited practices which had discriminatory effects, in order to demonstrate a constitutional violation of equal protection under the Fifth or Fourteenth amendments to the Constitution (para. 236), the plaintiff must establish that the challenged act was done with discriminatory intent. In paragraph 237 of the report the State party maintained that "statistical proof of racial disparity - particularly when combined with other circumstantial evidence" might be sufficient to prove discriminatory intent and justify a claim, which would be consistent with the provisions of the Committee's General Recommendations XIV relating to "an unjustifiable disparate impact upon a group distinguished by race, colour, descent or national or ethnic origin". He doubted, however, whether that position adequately reflected the intent of General Recommendation XIV regarding non-discrimination, equality before the law and equal protection of the law without any discrimination as a basic principle. In the case of the town of Arlington Heights v. Metropolitan Housing Development Corp., (para. 236) the Supreme Court had refused to allow the re-zoning of a neighbourhood to allow the building of multi-family low-income dwellings for the purpose of promoting racial integration on the grounds that, although refusal to allow the re-zoning would in effect discriminate against the black population, that was not constitutionally significant because insufficient proof had been presented with regard to the discriminatory intent of the refusal to re-zone. He was concerned at the discriminatory effect of such interpretations of the law which would allow situations of de facto discrimination to continue for want of sufficient proof of the very subjective notion of intent. The latter would also pose problems when dealing with the words, oral or written, and acts, of individuals.

26. Regarding the rights of private individuals to file suits under the civil rights legislation, in April 2001 the Supreme Court had, in a five to four vote in Alexander v. Sandoval, held that State schools and universities could not be sued if their policies had a discriminatory impact on

blacks, Hispanics and other minorities, but only if the discrimination was deliberate. It had also held that there was no private right of action to enforce those disparate impact regulations. In that far-reaching decision the Supreme Court had overturned part of the historic Civil Rights Act. Since the 1960s, the civil rights laws had been interpreted as applying to all objective discrimination and as enforceable through private litigation. The ruling overturned 35 years of practice and did away with one of the main tools for the enforcement of civil rights. It was expected to invalidate all suits being brought on the grounds that the scholastic aptitude tests used for admission to universities set minimum scores that were discriminatory to minorities, as well as a number of suits charging environmental discrimination in minority neighbourhoods, and it also seemed to nullify a 1972 federal law prohibiting gender discrimination in schools and universities in the field of sports. He asked the delegation to comment whether that current judicial trend to disallow all arguments based on the objective impact of discriminatory policies and to focus only on discriminatory intent did not, in fact, drastically restrict operative civil rights in the United States, for it was always extremely difficult to prove discriminatory intent, and to explain what the Government intended to do to counter that trend.

27. Mr. Fall, Vice-Chairman, took the Chair.

28. Mr. THORNBERRY observed that tremendous progress had indeed been made by the United States in addressing racial discrimination and that the emblematic civil rights cases referred to in the report had served as an inspiration to many. Yet the United States reservations to the Convention, which in the view of one eminent American scholar reflected the long-standing distrust of international human rights treaty-making raised a number of fundamental issues concerning the respective roles of international and domestic law. The existence of the reservations belied the implication in paragraph 6 of the report that the whole of United States law was compliant with the Convention, and their result was to give precedence to the United States Constitution and laws over international law in key areas of the Convention such as freedom of expression and the public/private distinction.

29. The reservation concerning freedom of expression relied on the concept of the marketplace of ideas: the good would drive out the bad. Yet freedom to disparage certain groups licensed discrimination and stereotyped and dehumanize the groups being targeted, whereas the prohibition of the dissemination of racist ideas was, in the philosophy of the Convention, as set out in the Committee's General Recommendation XV, compatible with freedom of opinion and expression. Vulnerable communities might not be in a position to resist hate speech and the Convention sought to protect them. In the marketplace of ideas, indeed, why not allow the ideas of the Convention to inform the discourse in the United States? Given the force of international obligations, it was not clear how article 4 could be given effect in many cases (report, para. 287), but not in others.

30. As to the public/private distinction, the Convention, in article 2, paragraph 1 (d), prohibited discrimination by any persons, group or organization, but the report maintained that United States law could only sometimes deal with discrimination by private actors. The trend towards devolution of social responsibilities to the private sphere made it increasingly important to challenge private discrimination and, again, it was not clear why that could not be done in all instances, along the lines of the Convention. Making treaty obligations dependent on the

Constitution and the changing laws of a country was a difficult position from the viewpoint of international law and made one wonder what exactly was the scope of the United States reservations and of its commitment to the Convention.

31. On the question of affirmative action, article 2, paragraph 2, of the Convention made it very clear that special measures to remedy disadvantage were mandatory when the circumstances so warranted. Such were the special measures taken by the United States Government on behalf of Native Hawaiians (report, para. 48). Although the Supreme Court had cast doubt on the Congress's authority to legislate in such a manner, and although various lower-court judgements had ordered an end to other affirmative action programmes (report, para. 275), the notion of equality employed in the Convention was one of equality in fact, which implied that those at a disadvantage must be treated differently and that such affirmative treatment could legitimately be ended only when the need for it had clearly ceased. That goal had not been reached in the United States, as indicated in paragraph 276 of the report.

32. Regarding what might be called the "intentionality jurisprudence" of the United States courts, he endorsed Mr. Yutzis' remarks on the difficulties of addressing an objective situation by concentrating on subjective considerations.

33. The report returned frequently to the complex situation of Native Americans in the country. Landmark Supreme Court cases in the nineteenth century had determined a broad doctrine of indigenous people as domestic dependent nations in a state of helpless inferiority that called for guardianship and protection, and of the Government's plenary power over the tribes. The United States had yet to renounce that doctrine, despite its racist roots. United States law had also individuated a doctrine of Aboriginal title, sometimes described as a right of occupancy, which Congress could extinguish at will and without compensation, since it was not a property right protected by the Fifth Amendment to the Constitution. Another corollary of such plenary power was the authority to abrogate treaties with Native Americans. The Committee had expressed its concern about the situation of indigenous peoples through General Recommendation XXIII and had on other occasions recognized their identity and entitlement to lands and the need for compensation when restitution was no longer possible. Its position on indigenous questions in Australia, particularly, suggested that the Convention was comfortable with diversity but not when it masked inferior treatment of a particular group; the interpretation of the Convention negotiated the borderland between difference on the one hand and inferiority and arbitrary treatment on the other. It would be most welcome if - as Australia had recently done in the case of an analogous doctrine - the United States would repudiate its guardianship doctrine, which was out of step with contemporary legal developments in indigenous rights, with the Government's own support for the concept of internal indigenous self-determination, and with both the Convention and the practice of the Committee.

34. Mr. SHAHI observed that the United States report had illuminated the workings of the complex United States system, involving a body of federal, State and local laws operating in conjunction with administrative actions, both executive and judicial. He appreciated the introduction of the report by the Justice Department official who would be bearing a major burden for the enforcement of the system on behalf of minorities and the disadvantaged. He commended the honesty of the report in its acknowledgement that de facto discrimination and inequalities were prevalent despite the achievements of the previous few decades.

In paragraph 71, listing 14 different causes for inequality, the report set forth what still lay ahead. He would like more information on the new Administration's civil rights policy and on the extent to which those factors were going to be addressed. It had been stated, for instance, that President Bush would eliminate racial profiling but no reference had been made to police brutality and other documented discrimination by law enforcement officers.

35. There seemed to be a clear gap in enforcement if federal civil rights legislation could be enforced in the States only in the case of federally-financed programmes, and the delegation should clarify that matter. The disparities in sentencing, which was more severe in the case of blacks and other minorities, and the acknowledged injustice of the disproportionate mandatory minimum penalties for drug offences (report, paras. 312 and 318) needed to be addressed by the Government.

36. He asked what the Bush Administration's policy was on the progressive restriction of affirmative action (report, paras. 267-269). The recent Supreme Court ruling that there had to be a strict judicial scrutiny of state affirmative action programmes for a compelling government interest in a narrowly-tailored use of race seemed to leave some scope for assisting Indians, blacks and other minorities. However, affirmative action needed to be expanded, not curtailed, despite the legal difficulties.

37. He endorsed Mr. de Gouttes' comments at the previous meeting regarding capital punishment and the disproportionate number of blacks sentenced to death, and his urging that the Government, pending an in-depth study of the fairness of the imposition of the death penalty, should call a moratorium on all executions. Although the United States Supreme Court had discounted the statistical evidence for disparate impact, the matter was of great concern to liberals of the world over, and he too hoped that the Bush Administration would give the matter due consideration.

38. Although it would appear from the report that the representation of minorities in courts and in Congress had improved and that obligations under article 5 (d) and (e) of the Convention were being met de jure, significant disparities still existed in practice. Since the poverty rates plainly reflected the plight of the minority community, indigence and discrimination in employment were issues which must be addressed. The pledge that action would be taken to combat the smuggling of foreign workers was most welcome.

39. The penultimate sentence of paragraph 150 of the report was extremely interesting, as it implied that hate speech per se might be made illegal at some time in the future. Paragraph 163 showed that the scope of the United States' reservations to the Convention was extensive, since it went beyond articles 4 and 7. Turning to paragraph 236, he considered that it would be very hard for a plaintiff to prove that there had been intent to discriminate, as required by the doctrine established by the Fair Housing Act and some Titles of the 1964 Civil Rights Act. Article 1 of the Convention spoke of purpose and effect but, in the United States, effect was not taken into consideration when analysing data to determine whether discrimination had occurred. It therefore seemed that the United States was failing short of its obligations under that article.

40. Mr. Sherifis resumed the Chair.

41. Mr. BOSSUYT endorsed the comments of Mr. de Gouttes and added that the report had skilfully outlined a number of complex issues and the attempts to solve them. In his opinion, Mr. Reshetov had been overcritical of the role played by the Supreme Court in matters of concern to the Committee. Although the precedent which had been cited was not exactly enlightened, it had to be acknowledged that the Supreme Court had played its role as guardian of the Constitution by laying down legal limits which politicians could not overstep, no matter how laudable their aims might be. That was particularly true with regard to the affirmative action described in paragraph 248 et seq. While such action might be useful and desirable, when deciding what form it should take States parties had to be mindful of their international obligations with regard to the prohibition of discrimination. Article 2 of the Convention should not be interpreted in such a way as to allow discrimination in the guise of affirmative action.

42. Positive discrimination in favour of persons who had not themselves been the victims of a violation of a fundamental right or freedom, including the right to equal opportunities, was likewise prohibited by international human rights law. Plenty of special measures were available to redress past injustice without depriving other citizens of their basic rights; indeed, practice in the United States provided numerous examples of measures deemed constitutional by the Supreme Court. It was hardly surprising that heavy pressure from powerful lobbies had led to moves inconsistent with the equal protection clause that embodied a fundamental principle found in all international human rights treaties, namely a ban on discrimination. Affirmative action had not been jeopardized because, in a few cases, the Supreme Court had held that a measure infringed that principle. The central dilemma was to find ways of promoting greater de facto equality without discriminating against other citizens who were in no way responsible for certain reprehensible past practices. What had been the outcome of the review mentioned in paragraph 276? What was the policy of the new Government on that matter?

43. All defenders of human rights were horrified by the number of death sentences carried out in the United States and could not understand why the leaders of the country did not realize that the death penalty was incompatible with a high level of civilization. Of course, substantial sections of public opinion in the United States were in favour of capital punishment; regrettably some political leaders were all too ready to pander to such sentiments in order to be elected, whereas they should have the courage to explain that the death penalty was not essential in order to combat crime. One of the most convincing arguments against capital punishment was that 36 per cent of persons condemned to death were blacks who had ended up on death row not because they had committed a particularly odious crime, but because, as socially disadvantaged persons, they had been poorly defended in court. Such rank injustice was especially serious when life was at stake.

44. The delegation of the United States of America withdrew.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3) (continued)

45. The CHAIRMAN announced that Ms. McDougall had replaced Mr. de Gouttes in the Committee's delegation to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

46. Ms. JANUARY-BARDILL said that all the treaty bodies had been invited to the meeting organized by the United Nations Population Fund, on 25 to 27 June 2001, on the application of human rights to reproductive and sexual health, in order to discuss the manner in which they could integrate that subject in their work. She proposed that the recommendations made at the meeting should be examined by the Committee with a view to possibly drawing up recommendations on the inclusion of that topic in the Committee's deliberations. It had transpired at the workshop that many of the other treaty bodies had already begun to do so. The Committee's consideration of the report of China had revealed the extent to which birth control policy had implications for minorities.

47. The CHAIRMAN said that he had received a letter from the United Nations High Commissioner for Human Rights inviting the Committee to nominate a member with expertise in multiple discrimination, including gender and racial discrimination, to represent it on a panel to explore the link between HIV/AIDS, stigma, discrimination and racism, which was to be organized by her Office, the Joint United Nations Programme on HIV/AIDS and the World Health Organization. The panel would meet on 5 September, in Durban, during the World Conference. He proposed Ms. January-Bardill.

48. Ms. JANUARY-BARDILL said that she would be happy to participate and welcomed the fact that HIV/AIDS, an essential topic, had been put on the agenda of the World Conference. Furthermore, she had had personal experience of working in that field.

49. The CHAIRMAN said he took it that the Committee agreed that Ms. January-Bardill should represent it on the panel.

50. It was so decided.

51. Mr. RESHETOV said that he had received and accepted an invitation to attend the same panel in a personal capacity.

52. The CHAIRMAN said that members were entitled to participate in the panel in a personal capacity, but stressed that Ms. January-Bardill was the Committee's official representative.

The meeting rose at 12.55 p.m.